

ADVISORY: NEW JERSEY EXECUTIVE ORDERS NO. 107 AND 108

New Jersey Governor Phil Murphy has issued Executive Orders 107 (2020) and 108 (2020) to respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"). The Orders became effective on March 21, 2020 at 9:00 PM. The Orders place different restrictions on people and different types of businesses in the state, the highlights of which we have summarized below. You may access the complete text of the Orders at the following links:

<https://nj.gov/infobank/eo/056murphy/pdf/EO-107.pdf>

<https://nj.gov/infobank/eo/056murphy/pdf/EO-108.pdf>

RESIDENTS

All New Jersey residents are required to remain home, but are permitted to leave for one of several listed purposes, mostly:

- To shop at retail establishments that are permitted to remain open.
- To seek medical attention, essential social services, or assistance from law enforcement or emergency services.
- To visit immediate family or close personal friends (namely, immediate family members, caretakers, household members, or romantic partners).
- To go to work.
- To exercise, while following best social distancing practices with people other than family and close personal friends.
- For an educational, religious, or political reason.
- Due to reasonable fear for health or safety.
- To obey law enforcement or another government agency.
- In public, including while taking public transportation, individuals must stay six feet apart from people other than immediate family members, caretakers, household members, or romantic partners.
- Individuals who have to travel for a permissible reason should use public transportation only if they have no other feasible choice.

RESTAURANTS, DINING ESTABLISHMENTS AND BARS

- Gatherings of individuals, such as parties, celebrations, or other social events are cancelled, unless otherwise authorized by any part of the Order.
- May operate their normal business hours, but are limited to offering only food delivery and/or take-out services.
- Sale of alcoholic beverages must be limited to original containers sold from the principal public barroom.

- Breweries, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must sell products in original containers and through customer pick up and/or delivered by licensees in accordance with their existing licenses.
- On-premises consumption of alcohol is prohibited.

ESSENTIAL RETAIL BUSINESSES

"Essential Retail Businesses" may remain open subject to certain restrictions. Essential Retail Businesses Currently Include:

- Grocery stores, farmer's markets and farms that sell directly to customers, and other food stores, including retailers that offer a varied assortment of foods comparable to what exists at a grocery store.
- Pharmacies and alternative treatment centers that dispense medicinal marijuana
- Medical supply stores
- Retail functions of gas stations
- Convenience stores
- Ancillary stores within healthcare facilities
- Hardware and home improvement stores
- Retail functions of banks and other financial institutions
- Retail functions of laundromats and dry-cleaning services
- Stores that principally sell supplies for children under five years old
- Pet stores
- Liquor stores
- Car dealerships, but only to provide auto maintenance and repair services, and auto mechanics
- Retail functions of printing and office supply shops
- Retail functions of mail and delivery stores
- The Superintendent of the State Police, has the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list, but the Order does not prescribe a procedure through which any such changes can be initiated

ESSENTIAL RETAIL BUSINESSES RULES AND RESTRICTIONS:

- May remain open during their normal business hours.
- Must, wherever practicable, provide pickup services outside or adjacent to their stores for goods ordered in advance online or by phone.
- Online and telephonic delivery services are permitted to the extent the retail business is authorized to operate an online or telephonic delivery service under existing law.
- Must abide by social distancing practices to the extent practicable while providing essential services, including making all reasonable efforts to keep customers six feet apart and frequent use of sanitizing products on common surfaces.

BUSINESSES THAT MUST CLOSE TO THE PUBLIC

- The brick-and-mortar premises of all non-essential retail businesses.
- All "recreational and entertainment businesses," including those enumerated in a long list that includes:
 - Casinos gaming floors
 - Racetracks, including stabling facilities and retail sports wagering lounges
 - Gyms and fitness centers and classes
 - Entertainment centers
 - Indoor portions of retail shopping malls
 - All places of public amusement, whether indoors or outdoors
 - Facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, such as cosmetology shops; barber shops; beauty salons; but excluding any health facilities that provide medically necessary or therapeutic services
- All municipal, county, and State public libraries, and all libraries and computer labs at public and private colleges and universities

REMOTE WORKFORCE REQUIREMENTS FOR ALL BUSINESSES

- All businesses or non-profits in the State, whether closed or open to the public, must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements.
- If employees cannot perform functions by telework or work-from-home arrangements, the business should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue. Examples of employees who need to be physically present at their work site in order to perform their duties include, but are not limited to, law enforcement officers, fire fighters, and other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and certain administrative staff.

CERTAIN OVERALL LIMITATIONS IN THE ORDER

The Order will not be applied to limit or restrict:

- The provision of health care or medical services to members of the public.
- Access to essential services for low-income residents, including but not limited to food banks.
- The operations of newspapers, television, radio, and other media services.
- The operations of the federal government, or the movement of federal officials in New Jersey while acting in their official capacity.

EDUCATION

- All preschool program premises, elementary and secondary schools remain closed to students.

- All institutions of higher education shall continue to cease such in-person instruction as long as this Order remains in effect, with waivers potentially available through Secretary of the Office of Higher Education in compelling circumstances.
- The Department of Education ("DOE"), in consultation may permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services in emergency situations after consultation with the Commissioner of DOH.
- The Department of Agriculture and DOE will ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

COUNTY AND MUNICIPALITIES

Executive Order 108 invalidates any county or municipal restriction that in any way conflicts with any provision of Executive Order 107. The only exceptions are two categories over which municipalities or counties may impose additional restrictions: 1) online marketplaces for arranging or offering lodging, and 2) municipal or county parks.

PENALTIES

Violations of these Orders are punishable under provisions of the New Jersey Statutes that allow imprisonment for a term not to exceed 6 months and/or a fine of up to \$1,000.00.

For access to articles and alerts from the State's COVID- 19 Information Hub, please visit:

<https://covid19.nj.gov/>